



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SOUTHWEST GENERAL HOSPITAL
1415 LOUISIANA ST STE 2225
HOUSTON TX 77002-7392

Respondent Name

INDEMNITY INSURANCE CO OF NORTH AMERICA

Carrier's Austin Representative Box

Box Number 15

MFDR Tracking Number

M4-08-6030-01

MFDR Date Received

April 5, 2007

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "An audit of all of the Hospital's non-governmental managed care contract reimbursement rates has confirmed the average reimbursement for this same outpatient surgical procedure is 65% of the Hospital's billed charges. Based on compliance with Rule §134.401 and an impartial and just 'fair and reasonable' allowance, the Hospital should be paid nothing less than 65% for this claim."

Amount in Dispute: \$6,598.62

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The insurance carrier did not submit a position statement for consideration in this review.

Response Submitted by: Gallagher Bassett – Dallas, 6504 International Pkwy, Suite 2100, Plano, Texas 75093

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
September 26, 2006	Outpatient Hospital Services	\$6,598.62	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.1 sets forth general provisions related to medical reimbursement.
3. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
4. No payment reduction or denial codes were found with the initial explanation of benefits. Notation was found indicating as follows: "* Unless otherwise noted all reductions are due to charges exceeding the Texas Official Medical and/or Pharmaceutical Fee Guidelines allowance."

5. The explanation of benefits in response to the request for reconsideration denied services with the following reason code: ON – “RECOMMENDATION(S) WILL STAND AS THEY WERE PREVIOUSLY DEFINED AND NO ADDL RECOMMENDATION IS DUE BASED ON THE DWC MEDICAL FEE GUIDELINES/RULE.”

Findings

1. Review of the submitted explanation of benefits found indication that the insurance carrier accessed a PPO discount through the Rockport network. No documentation was found to support that the disputed services are subject to a contractual fee agreement between the parties to this dispute. Nevertheless, on January 6, 2011, the Division requested the respondent to provide a copy of the referenced contract between the requestor and the alleged network, pursuant to former 28 Texas Administrative Code §133.307(e)(1), effective December 31, 2006, 31 Texas Register 10314, which states that “The Division may request additional information from either party to review the medical fee issues in dispute. The additional information must be received by the Division no later than 14 days after receipt of this request. If the Division does not receive the requested additional information within 14 days after receipt of the request, then the Division may base its decision on the information available.” The submitted contract information did not reference the Rockport network to which the insurance carrier alleged access on the explanation of benefits. No documentation was found to support that the insurance carrier, Indemnity Insurance Company of North America, was a participant or contracted payor in the alleged network. No documentation was found to support that the insurance carrier had been granted access to the contractual fee arrangement between the alleged network and the requestor. No documentation was found to support that the injured employee was a participant in the alleged network at the time the services were rendered. The Division therefore concludes that the disputed services are not subject to a contract between the parties to this dispute. These services will therefore be reviewed per applicable Division rules and fee guidelines.
2. This dispute relates to services with reimbursement subject to the provisions of former 28 Texas Administrative Code §134.1, effective May 2, 2006, 31 Texas Register 3561, which requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers’ compensation health care network shall be made in accordance with subsection §134.1(d) which states that “Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available.”
3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
4. Former 28 Texas Administrative Code §133.307(c)(2)(E), effective December 31, 2006, 31 Texas Register 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include “a copy of all applicable medical records specific to the dates of service in dispute.” Review of the submitted documentation finds that the requestor has not provided copies of any medical records to support the services in dispute. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(E).
5. Former 28 Texas Administrative Code §133.307(c)(2)(F)(iv), effective December 31, 2006, 31 Texas Register 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issues including “how the submitted documentation supports the requestor position for each disputed fee issue.” Review of the submitted documentation finds that the requestor has not discussed how the submitted documentation supports the requestor position for each disputed fee issue. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(iv).
6. Former 28 Texas Administrative Code §133.307(c)(2)(G), effective December 31, 2006, 31 Texas Register 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:
 - The requestor’s position statement asserts that “An audit of all of the Hospital’s non-governmental managed care contract reimbursement rates has confirmed the average reimbursement for this same outpatient surgical procedure is 65% of the Hospital’s billed charges. Based on compliance with Rule §134.401 and an impartial and just ‘fair and reasonable’ allowance, the Hospital should be paid nothing less than 65% for this claim.”

- The requestor submitted insufficient documentation to support that the average reimbursement for this same outpatient surgical procedure is 65% of the Hospital's billed charges.
- The Division has previously found that a reimbursement methodology based upon payment of a percentage of a hospital's billed charges does not produce an acceptable payment amount. This methodology was considered and rejected by the Division in the adoption preamble to the Division's former *Acute Care Inpatient Hospital Fee Guideline*, which states at 22 *Texas Register* 6276 that:

A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources.

Therefore, a reimbursement amount that is calculated based upon a percentage of a hospital's billed charges cannot be favorably considered when no other data or documentation was submitted to support that the payment amount being sought is a fair and reasonable reimbursement for the services in dispute.

- The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

<hr/> Signature	<hr/> Grayson Richardson Medical Fee Dispute Resolution Officer	<hr/> December 3, 2013 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.